

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

T.W.D. – Revision Petition filed Sri Thirumalasetty Venkata Subha Shanmukha Kumar S/o Venkateswarlu, MBA Student, VPG.College, Nizampet, Hyderabad, filed under Section 7 (3) of Act 16 of 1993, against the G.O.Ms.No.40, dated 13.6.2007 confirmed the proceedings dated 7.2.2006 of the District Collector, Nellore – Revision petition rejected – Orders – Issued.

SOCIAL WELFARE (CV.2) DEPARTMENT

G.O.Ms.No. 75

Dated: 27-6-2009
Read the following:-

- 1.Proceedings of the Collector, Nellore District, No.C5(M) 928/2004, Dated 7.2.2006.
- 2.Appeal Petition filed by Sri Thirumalasetty Venkata Subha Shanmukha Kumar, S/o Venkateswarlu, R/o Nizampeta, Kukatpally, Hyderabad, dated 8.3.2006
- 3.Govt. Memo No. 2216/CV.2/2006-1,Dated:24-3-2006
- 4.From the Dist.Collector, Nellore, Lr.Rc.C5(M) 928/2004, dated 1.7.2006.
- 5.Govt.Memo No. 2216/CV.2/2006-3, dated 20.3.2007.
- 6.G.O.Ms.No.40, SW (CV.2) Dept., dated 13.6.2007
- 7.Revision Petition filed by Sri T.V.S.S.Kumar, dated 12.7.2007 before M(TW & RIAD).
- 8.Govt.Memo No. 4938/CV.2/2007, dated 19.3.2008.

ORDER:

Sri T.Venkata Sudha Shanmukha Kumar S/o Venkateswarlu, MBA Student, VPG College, Nizampet, Hyderabad, has filed appeal petition Under Section 7(2) of Act 16 of 1993, dated 8.3.2006, against the Proceedings dated 7.2.2006 of the District Collector, Nellore, for cancellation of his ST ‘Yanadi’ Caste Certificate, and submitted his grounds. The Govt. has obtained the parawise remarks and connected records on the appeal petition filed by the appellant. Further the case has been examined in detail along with the records, material papers of the case file and appeal petition filed by Sri T.V.S.S.Kumar and given reasonable opportunity to the appellant along with his counsel and finally no documentary evidence produced by appellant in support of his ST claim, and decided that confirmed the orders of the District Collector, Nellore issued in Proceedings No. No.C5(M) 928/2004, Dated 7.2.2006, vide orders issued in G.O.Ms.No.40, SW (CV.2) Department, dated 13.6.2007.

2) In reference 7th read above, the appellant has filed Revision Petition before M(TW & RIAD) on 12.7.2007 and submitted documents as evidence in support of his ST Yanadi claim and requested for proper adjudication. Govt. has admitted the case for Revision, and obtain again the connected original records of the case for examination along with the documents submitted by the appellant.

3) The case was posted for personal hearing on 27.3.2008. The appellant and his counsel were present and argued the case and submitted some Xerox of the caste certificates.

4) On careful examination of the contention of the petitioner in his review petition and documentary evidences produced by him, it is found that :

- i) The review petition is filed under Section 7(3) of Act 16 of 1993 stated that "the Govt. may, on an application received from any person aggrieved by an order passed by the Government under sub-section (2) of Section (5), within thirty days of the publication of that order in the A.P. Gazette, review any such order if it was passed by them under any mistake, whether of fact or law or ignorance of any material fact".
- ii) Sub-section (2) of Section (5) states that "the powers of the nature referred in sub-section (1) may also be exercised by the Government". Thus, the powers of the District Collector for cancellation of false community certificates under sub-section (1) of Section (5) are also vested with the Government".

5) Therefore, the Govt. is empowered in review their orders issued only under sub-section (2) of Section (5). But the review petition filed by the petitioner is on the G.O.Ms.No.40, SW (CV.2) Department, dated 13.6.2007 which is issued under sub-section (2) of Section (7).

6) The Govt. can review their orders canceling any false certificate by the Government under section 5(2). In the present case, the Government has issued orders in the G.O.Ms.No.40, SW (CV.2) Department, dated 13.6.2007 rejecting the appeal, confirmed the orders of the District Collector, Nellore issued under section 5(1). Hence, the review petition is legally invalid. In other words, the Govt. has no powers to review their orders issued under Section 7(2).

7) However, the documentary evidences produced by the petitioner i.e. Photostat copies of various people stating that such people are his relatives is not tenable and do not sustain his S.T status claim because the petitioner and his father in their depositions before the Revenue and Tribal Welfare authorities stated that they do not have any paternal relatives. If it is so how can he state all the persons of these certificates are his relatives? It is only an after –thought and cannot be considered in support of the petitioner's ST status claim. The Review Petition is devoid of merits.

8) Therefore in view of the above, and in exercise of the powers conferred under Act 16 of 1993 and Rules made there under issued in G.O.Ms.No.58, SW (J) Department, dated 12.5.1997, the Review Petition filed by Sri Tirumalasetti Venkata Subha Shanmukha Kumar S/o T.Venkateswarlu, is rejected, and confirmed the earlier orders of the Govt. in G.O.Ms.No.40, SW (CV.2) Department, dated 13.6.2007.

9) The records received from the District Collector, Nellore, vide reference 4th read above, is returned herewith to the District Collector, Nellore, and he is requested to acknowledge the receipt of the same to Govt. urgently.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,
PRINCIPAL SECRETARY TO GOVERNMENT.

To

The District Collector, Nellore (WE)
Original Records file bearing No. Rc
C5(M)928/2004, Containing pages 306CF + 16 NF.

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Sri T.V.S.S.Kumar S/o T.Venkateswarlu,
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M/s T.R.Koteswara Rao, Advocate,
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Hyderabad – 500 044.

Copy to:

The PS to M(TW & RIAD)/ PS to Prl.Secretary (TW)

The Director, TCR & TI.Hyderabad.

Sf/SC.

//Forwarded::By Order//

SECTION OFFICER